

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
) Criminal No. 19-300____-MGM
)
) Violations:
)
)
) Counts One Through Three: Theft Concerning
) Programs Receiving Federal Funds; Aiding And
) Abetting
) (18 U.S.C. §§ 666(a)(1)(A) and 2)
)
)
) Counts Four Through Seven: Wire Fraud;
) Aiding and Abetting
) (18 U.S.C. §§ 1343 and 2)
)
)
) Counts Eight Through Eleven: Engaging In
) Monetary Transactions In Property Derived
) From Specified Unlawful Activity; Aiding and
) Abetting
) (18 U.S.C. §§ 1957 and 2)
)
)
) Counts Twelve Through Nineteen: Money
) Laundering; Aiding and Abetting
) (18 U.S.C. §§ 1956(a)(1)(B)(i) and 2)
)
)
) Count Twenty Through Twenty-Three: Filing A
) False Tax Return
) (26 U.S.C. § 7206(1))
)
)
) Count Twenty-Four: Conspiracy To Defraud
) The United States
) (18 U.S.C. § 371)
)
)
) Forfeiture Allegations:
) (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. §
) 2461(c) and 18 U.S.C. § 982(a)(1))

INDICTMENT

At all times relevant to this Indictment:

General Allegations

The Defendants and Related Parties

1. Defendant KEVIN M. KENNEDY (“KENNEDY”), a Massachusetts resident, was a golf professional and the sole owner, President, Treasurer, Secretary and sole Director of Kennedy Golf Management, Inc. (“KGMI”), a Massachusetts corporation.

2. From 2010 through 2016, KENNEDY and KGMI contracted with the City of Springfield (the “City”) to manage the City’s two municipal golf courses, Franconia Golf Course (“Franconia”) and Veterans Memorial Golf Course (“Veterans”).

3. Defendant KENT S. PECOY (“KENT PECOY”) was the sole owner, operator, and chief executive officer of The Pecoy Companies, which included Kent Pecoy & Sons, Construction, Inc. (“KPSCI”), Sturbridge Development, LLC (“Sturbridge”), and Legacy General Contractors, LLC (“Legacy”). KPSCI constructed homes and Sturbridge developed residential real estate. The Pecoy Companies operated out of a headquarters in West Springfield, Massachusetts.

4. Defendant JASON PECOY was KENT PECOY’s son and the KPSCI project manager for two homes constructed for KENNEDY at the following locations: Sherwood Lane in East Longmeadow, Massachusetts (the “East Longmeadow Residence”) and Ferry Street in West Dennis, Massachusetts (the “Cape House”).

5. KPSCI had an Accounting Department, which was managed by a series of four different Controllers (the “first Controller,” “second Controller,” “third Controller,” and “fourth Controller”). KPSCI’s Controllers attempted to account for all corporate transactions, including

transactions for the East Longmeadow Residence and the Cape House. KENT PECOY supervised and directed the Controllers. The Accounting Department also employed a Project Administrator, who coordinated billing for the project managers.

6. KENT PECOY, JASON PECOY, and KPSCI engaged several vendors, including a lumber supplier (the “Lumber Company”), and various subcontractors (“Subcontractors 1-11”) to assist KPSCI in constructing KENNEDY’s East Longmeadow Residence and Cape House.

7. The Internal Revenue Service (“IRS”) is the component of the United States Department of Treasury (the “Treasury Department”) that is responsible for assessing and collecting federal income taxes from individuals and businesses.

8. Charles Schwab Bank (“CS Bank”) was a financial institution, the accounts of which were insured by the Federal Deposit Insurance Corporation (“FDIC”). PHH Mortgage Corp. (“PHH”) provided mortgage services to clients on behalf of CS Bank.

9. Financial institutions, such as banks, must file Currency Transaction Reports (“CTRs”) to the Treasury Department for any cash transaction greater than \$10,000. The IRS uses CTRs in part to identify potential sources of cash that might not be reported on federal income tax returns, as well as to identify potential money laundering activity. Federal law prohibits structuring, or breaking up single cash transactions greater than \$10,000 into multiple transactions whose individual amounts are less than \$10,000 for the purpose of evading the CTR reporting requirements.

10. Businesses must file a Form 1099-MISC (Miscellaneous Income) with the IRS reporting payments to a payee (other than a corporation) of at least \$600 that the business made in the course of its trade or business, and provide a copy of the Form 1099-MISC to the payee.

The City's Receipt of Federal Funds

11. For each of the years from 2010 through 2016, the City received federal program benefits in excess of \$10,000.

Kennedy's Theft Scheme

12. According to the municipal contracts, KENNEDY and KGMI were required to collect the golfers' payments for golf ("greens fees") and motorized carts ("cart fees"), account for these payments, remit them to the City without any deductions on a daily basis, and keep records regarding this revenue.

13. The City provided KGMI with an annual budget of approximately \$240,000, which included KENNEDY's own compensation. The City also allowed KENNEDY and KGMI to operate pro shops at each of the golf courses, and to keep all revenue from golf lessons, pull carts, and merchandise sales.

14. The City also required KENNEDY and KGMI to enter all sales into a cash register, regardless of the form (*e.g.*, cash, check, or credit card) and whether the proceeds were due to the City or KGMI. In addition, the City required KENNEDY and KGMI to provide all requested financial records, regardless of whether the revenue was due to the City or KGMI, including annual certified financial statements for all of KGMI's operations and activities. The City provided KGMI funds every year for its own accounting services and required KGMI to make any reimbursements to the City by check or money order.

15. In accordance with the contracts, KENNEDY and KGMI operated two sets of cash registers and payment card terminals at each of the golf courses: one set was to be used for all of the City's transactions, and the other set was to be used just for KGMI's transactions. KENNEDY

and KGMI also provided the City with Daily Cash Receipts Reports (“Daily Reports”) for both courses that were required to account for all of the cash, check, and credit card transactions payable to the City that day.

16. During each of the years from 2010 through 2015, KENNEDY embezzled, stole, obtained by fraud, and otherwise without authority knowingly converted to the use of a person other than the rightful owner, and intentionally misapplied more than \$5,000 in cash and payment card transactions for greens fees and cart fees that were actually due and payable to the City.

17. KENNEDY conducted and concealed his theft of cash and payment card transactions by, among other things:

- a. submitting contract bids to the City that falsely stated KGMI would account for all goods sold in both golf shops; employ the most advanced accounting technology; satisfy any and all requests for financial records; and use a certified public accountant, known to the grand jury as DE, who oversaw all its accounting practices;
- b. stealing cash due and payable to the City while operating the City cash registers;
- c. conducting and causing KGMI workers to conduct payment card transactions for greens fees and cart fees through KGMI’s payment card terminals rather than through the City’s payment card terminals;
- d. directing KGMI workers to process gift certificate purchases through KGMI cash registers and payment card terminals, and falsely stating to

KGMI workers that he reimbursed the City for gift certificates redeemed for greens fees and carts fees;

- e. directing KGMI workers to certify false and fraudulent Daily Reports that substantially understated the greens fees and cart fees collected that day;
- f. falsely stating to KGMI workers that the City had authorized KENNEDY to charge less than the City's rates for greens fees and cart fees and that KENNEDY was reimbursing the City for its payment card transactions conducted on KGMI terminals;
- g. submitting merchant processing applications for KGMI to operate payment card terminals in the names of "Franconia Golf Course" and Veterans Golf Course," rather than in the names of KGMI's golf shops;
- h. refusing to provide the City with the required certified financial statements for any of KGMI's operations and activities;
- i. failing to create, maintain, and provide the City with the required inventory, sales, and purchase records for KGMI's pro shop sales; and
- j. falsely stating to City employees, City auditors, and others that KGMI processed a minimal amount of City transactions on KGMI's payment card terminals and that KGMI fully reimbursed the City for each of these transactions.

18. From 2010 through 2015, KENNEDY conducted and caused to be conducted numerous payment card transactions on KGMI's terminals for greens and cart fees that were

actually due and payable to the City, without reimbursing the City for those charges. These included repeated transactions by golfers known to the Grand Jury as PM, SC, DR, and WP.

19. KENNEDY used KGMI's Hampden Bank Account x-5957 (the "KGMI Hampden Account") to receive payment card transactions processed on KGMI's terminals at both Veterans and Franconia.

20. After these payment card transactions were deposited into the KGMI Hampden Account, KENNEDY used some of the stolen funds to pay KGMI's American Express account and KGMI's suppliers, including the golf merchandise company Acushnet.

21. KENNEDY also transferred some of the stolen funds to a joint personal account at Hampden Bank x-9377 maintained by KENNEDY and his wife (the "Kennedy Hampden Account") and then used the funds to pay personal credit card debts, his Cape House mortgage, and other various creditors, including the IRS.

22. For substantial periods of time covering approximately 378 days from August 5, 2010 through November 29, 2015, KGMI conducted a total of only 195 transactions on City payment card terminals totaling \$6,760. During these same days, KGMI conducted 29,795 transactions on KGMI payment card terminals totaling \$1,095,287, including numerous transactions for greens fees and cart rentals.

23. From 2010 through 2015, KENNEDY wrote only six checks totaling approximately \$6,330 that contained memo lines that referenced payment card reimbursement, such as "charges," "vet & franconia charge machine," "credit card," "charge machine," and credit card reimb." During this same period, KENNEDY only wrote a total of approximately \$81,630

in checks to the City from his business and personal accounts for any purpose, including to pay his personal property and excise taxes.

Theft of City Funds Between March 28, 2013 and May 11, 2013

24. Between on or about March 28, 2013 and May 11, 2013, KGMI conducted only 42 transactions totaling \$1,672 on the City's payment card terminals.

25. By contrast, KGMI conducted 4,694 transactions totaling \$174,500 on KGMI's payment card terminals during this same period, and many of these transactions related to greens and cart fees. These charges included a \$17 purchase of greens fees by SC at Franconia on or about May 3, 2013.

26. On or about April 2, 2013, KENNEDY conducted a \$5,000 transfer from the KGMI Hampden Account to the Kennedy Hampden Account. On or about April 8, 2013, KENNEDY remitted a \$1,348 mortgage payment for the Cape House from the Kennedy Hampden Account to Quicken Loans ("Quicken").

27. On or about May 9, 2013, KENNEDY conducted a \$25,000 wire transfer from the KGMI Hampden Account to American Express to pay KGMI's payment card account.

Theft of City Funds Between June 13, 2013 and July 10, 2013

28. Between on or about June 13, 2013 and July 10, 2013, KGMI conducted only eight transactions totaling \$170 on the City's payment card terminals.

29. By contrast, KGMI conducted 3,234 transactions totaling \$126,490 on KGMI's payment card terminals during this same period, and many of these transactions related to greens fees and cart fees. These charges included a \$31 purchase of greens and cart fees by DR at Franconia on or about June 26, 2013.

30. On or about June 20, 2013, KENNEDY conducted a \$34,771 transfer from the KGMI Hampden Account to Acushnet.

Theft of City Funds Between September 25, 2013 and November 30, 2013

31. Between on or about September 25, 2013 and November 30, 2013, KGMI conducted only two transactions totaling \$69 on the City's payment card terminals.

32. By contrast, KGMI conducted 2,570 transactions totaling \$102,209 on KGMI's payment card terminals during this same period, and many of these transactions related to greens fees and cart fees. These charges included a \$39 purchase of greens and cart fees by WP at Franconia on or about October 12, 2013.

33. On or about October 17, 2013, KENNEDY conducted a \$33,000 transfer from the KGMI Hampden Account to the Kennedy Hampden Account. On or about October 18, 2013, KENNEDY wrote Check No. 1167 in the amount of \$31,684 from the Kennedy Hampden Account to pay the IRS.

34. On or about November 8, 2013, KENNEDY conducted a \$36,104 wire transfer from the KGMI Hampden Account to American Express to pay KGMI's payment card account.

Theft of City Funds Between May 3, 2014 and June 13, 2014

35. Between on or about May 3, 2014 and June 13, 2014, KGMI conducted only two transactions totaling \$64 on the City's payment card terminals.

36. By contrast, KGMI conducted 5,474 transactions totaling \$192,105 on KGMI's payment card terminals during this same period, and many of these transactions related to greens fees and cart fees. These charges included a \$31 purchase of greens and cart fees by DR on or about June 4, 2014.

37. On or about May 29, 2014, Kennedy conducted an \$11,999 wire transfer from the KGMI Hampden Account to Acushnet.

38. On or about June 5, 2014, KENNEDY conducted a \$20,000 transfer from the KGMI Hampden Account to the Kennedy Hampden Account, and then conducted two separate \$9,000 electronic payments from the Kennedy Hampden Account to pay his personal credit card accounts at American Express and Bank of America.

39. On or about June 9, 2014, KENNEDY remitted a \$1,333 mortgage payment from the Kennedy Hampden Account to Quicken for the Cape House.

Kennedy's False Income Tax Returns

40. For each of the tax years 2009 to 2014, KENNEDY filed KGMI's Forms 1120S, U.S. Income Tax Return for an S Corporation, as well as his own Forms 1040, U.S. Individual Income Tax Return.

41. In each of these returns, KENNEDY intentionally omitted a substantial part of the income that he and KGMI acquired during these years, including cash and checks acquired through his operation of KGMI. In addition, on his 2014 Form 1040, KENNEDY included a fraudulent deduction.

Overview of the Conspiracy to Defraud the United States

42. Beginning in or about November 1, 2009, KENNEDY, KENT PECOY, JASON PECOY, and certain of the Subcontractors agreed to defraud the United States by concealing cash provided by KENNEDY to purchase and construct the East Longmeadow Residence and the Cape House.

43. From on or about November 23, 2009, through at least October 31, 2015,

KENNEDY paid KENT PECOY, JASON PECOY, and KPSCI approximately \$1,116,900 in cash to purchase and/or construct the East Longmeadow Residence and the Cape House.

44. From on or about August 9, 2010, through at least November 19, 2014, KENT PECOY and JASON PECOY paid and caused to be paid at least \$600,000 of KENNEDY's cash to the Lumber Company to construct the East Longmeadow Residence and the Cape House, and for other unrelated projects.

45. From in or about April 2013, through at least July 2015, KENT PECOY and JASON PECOY paid approximately \$135,700 of KENNEDY's cash to the Subcontractors for work performed at the Cape House.

Object and Purpose of the Conspiracy

46. The object of the conspiracy was to defraud the United States. The principal purposes of the conspiracy were to: (1) evade the assessment and payment of income tax for KENNEDY and for certain of the Subcontractors through the concealment of cash from detection by the IRS; and (2) generate revenue for KPSCI and certain of the Subcontractors while avoiding detection of the large amounts of cash they were receiving.

Manner and Means of the Conspiracy

47. Among the manner and means by which KENT PECOY, JASON PECOY, KENNEDY, the Subcontractors, and coconspirators known and unknown to the Grand Jury carried out the conspiracy were the following:

- a. KENNEDY filed false federal income tax returns for both KGMI and himself that omitted cash income.

- b. KENNEDY paid cash to purchase the East Longmeadow Residence lot from Sturbridge.
- c. KENNEDY paid cash for KPSCI to construct the East Longmeadow Residence.
- d. KENT PECOY and KENNEDY concealed from their own attorneys cash that KENNEDY paid for the East Longmeadow Residence lot and construction.
- e. KENNEDY and KENT PECOY caused false documents to be provided to PHH and CS Bank relating to the sale of the East Longmeadow lot and the construction of the East Longmeadow Residence.
- f. KENNEDY paid cash for KPSCI to construct the Cape House.
- g. KENT PECOY caused KPSCI employees to engage in structured cash deposits of some of KENNEDY's cash.
- h. KENT PECOY and JASON PECOY maintained and distributed the vast bulk of KENNEDY's cash outside of KPSCI's and Sturbridge's bank accounts.
- i. KENT PECOY provided misleading and false statements to an IRS Revenue Agent concerning his receipt and disposition of cash.
- j. KENT PECOY and JASON PECOY created and maintained ledgers documenting KENNEDY's payments of cash and their disposition of that cash primarily outside the banking system.

- k. KENT PECOY and JASON PECOY created and maintained false contracts and costs sheets for KENNEDY's houses.
- l. KENT PECOY caused KPSCI to file false applications for construction permits with the Towns of East Longmeadow and Dennis.
- m. KENT PECOY and JASON PECOY caused KPSCI employees to create false entries in KPSCI's accounting system.
- n. KENT PECOY and JASON PECOY provided false documents and information to KPSCI's own accounting department.
- o. KENT PECOY and JASON PECOY arranged numerous payments of KENNEDY's cash to the Subcontractors for the construction of the Cape House.
- p. KENT PECOY and JASON PECOY caused KPSCI to provide false Forms 1099-MISC to the IRS and to the Subcontractors.
- q. KENT PECOY caused KPSCI to withhold relevant records in response to a federal Grand Jury subpoena.

Overt Acts in Furtherance of the Conspiracy

48. From on or about November 16, 2009, through on or about April 20, 2016, the defendants and co-conspirators known to the Grand Jury committed and caused to be committed the following overt acts, among others, in furtherance of the conspiracy:

- a. Between on or about November 16, 2009 and January 10, 2010, KENT PECOY and KENNEDY concealed from their own attorneys, CS Bank, and PHH approximately \$160,000 in cash that KENNEDY paid to KENT

PECOY for Sturbridge's sale of the East Longmeadow lot and for KPSCI's construction of the East Longmeadow Residence, through the following overt acts:

- i. On or about November 16, 2009, KENT PECOY agreed with KENNEDY to sell the East Longmeadow lot for \$139,000 and to construct the East Longmeadow Residence for \$629,550.
- ii. On or about November 16, 2009, KENT PECOY caused KPSCI to create a specifications contract that set the land price as \$139,000 and the construction price as \$629,550. KENT PECOY caused this specifications contract to be titled "Final Revised Spec for [KPSCI's first Controller] Only," so that it would not be provided to CS Bank.
- iii. On or about November 18, 2009, KENNEDY sent an e-mail to PHH that falsely stated, "We are anticipating the total build to be around \$600,000 between the lot and the house. This builder is getting very aggressive in dropping the price to get this down so I won't know the total breakdown between lot and build for a day or so."
- iv. On or about November 20, 2009, KENNEDY and KENT PECOY agreed:
 - (1) KENNEDY would make an initial payment of \$160,000 by November 23, 2009.
 - (2) KENT PECOY would apply \$24,000 toward Sturbridge's land sale, reducing KENNEDY's balance to \$115,000.

- (3) KENT PECOY would apply \$136,000 toward KPSCI's construction, reducing KENNEDY's balance to \$493,550.
 - (4) KENT PECOY would provide KENNEDY with a revised specifications contract that KENNEDY could submit to CS Bank that concealed the \$160,000 payment by listing the balances owed as the actual total prices.
- v. On or about November 23, 2009, KENNEDY provided KENT PECOY \$160,000 in cash.
 - vi. On or about November 23, 2009, KENT PECOY and KENNEDY executed a second, false specifications contract that listed the balances owed by KENNEDY for the land (\$115,000) and the construction (\$493,550) as the actual prices.
 - vii. On or about November 23, 2009, KENT PECOY and KENNEDY executed a New Construction Contract for the East Longmeadow Residence that falsely stated the total construction price was \$493,550.
 - viii. On or after November 23, 2009, KENNEDY and KENT PECOY caused PHH and CS Bank to receive the second, false KPSCI specifications contract and the false New Construction Contract.
 - ix. On or about November 25, 2009, KENT PECOY caused KPSCI to file a construction permit application with the Town of East

Longmeadow that falsely stated the construction price of the East Longmeadow Residence was \$495,000.

- x. On or about December 1, 2009, KENNEDY and KENT PECOY executed a Purchase and Sale Agreement that falsely stated the sale price for the East Longmeadow lot was only \$115,000, of which only \$5,000 had been paid as a deposit.
 - xi. On or about January 19, 2010, KENNEDY and KENT PECOY (through his attorney and on behalf of Sturbridge and KPSCI) executed false closing documents for CS Bank that concealed KENNEDY's \$160,000 cash payment by stating the land price was \$115,000, the construction price was \$493,550, and the only deposit was \$5,000.
- b. From on or about June 15, 2010 through at least December 18, 2012, KENNEDY, KENT PECOY, and JASON PECOY further concealed KENNEDY's cash payments for the East Longmeadow Residence from detection by the IRS, through the following overt acts:
- i. On or about June 15, 2010, KENNEDY paid KPSCI \$80,000 in cash.
 - ii. On or about June 29, 2010, KENT PECOY caused a KPSCI employee to deposit KENNEDY's cash as follows:
 - (1) \$9,821 - KPSCI account x-6001 at United Bank;
 - (2) \$9,871 - KPSCI account x-0339 at Rockville Bank;

- (3) \$9,820 - 215 Baldwin Street, LLC account x-4467 at United Bank;
 - (4) \$ 2,321 - KENT PECOY's joint account x-5626 at United Bank; and
 - (5) \$2,000 - KENT PECOY's joint account x-3664 at TD Bank.
- iii. On or about June 30, 2010, KENT PECOY caused a KPSCI employee to deposit \$9,741 of KENNEDY's cash into Legacy's account x-3870 at United Bank.
 - iv. On or about August 10, 2010, KENT PECOY caused a KPSCI employee to deposit \$9,953 of KENNEDY's cash into KPSCI account x-6601 at United Bank.
 - v. On or about August 12, 2010, KENT PECOY caused a KPSCI employee to deposit \$9,556 of KENNEDY's cash into KPSCI account x-6601 at United Bank.
 - vi. On or about September 9, 2010, KENNEDY filed a personal federal income tax return for Tax Year 2009 that fraudulently omitted cash income that KENNEDY acquired but did not deposit into any bank account.
 - vii. On or about October 15, 2010, KENT PECOY falsely stated to an IRS Revenue Agent that:
 - (1) he did not have any large amounts of cash on hand;
 - (2) customers paid him 100% by check; and

- (3) he deposited all business receipts into the bank.
- viii. On or about November 5, 2010, KENNEDY paid KPSCI \$80,000 in cash.
- ix. On or about November 5, 2010, KENT PECOY gave KPSCI's second Controller \$86,000 of KENNEDY's cash and directed him to pay the cash to the Lumber Company instead of depositing the cash into KPSCI's bank account.
- x. In 2010, JASON PECOY informed Subcontractor 1 that he would be paying cash but less than the invoiced amount, and Subcontractor 1 would not have to report the cash to the IRS.
- xi. In 2010, JASON PECOY provided Subcontractor 7 cash from KENNEDY in exchange for paying less than the invoiced amount.
- xii. On or about October 13, 2011, KENNEDY filed a personal federal income tax return for Tax Year 2010 that fraudulently omitted cash income that KENNEDY acquired but did not deposit into any bank account.
- xiii. On or about October 6, 2012, KENNEDY filed a personal federal income tax return for Tax Year 2011 that fraudulently omitted cash income that KENNEDY acquired but did not deposit into any bank account.
- c. From on or about April 1, 2013 through at least October 31, 2015, KENNEDY, KENT PECOY, and JASON PECOY further concealed

KENNEDY's cash payments for the Cape House from detection by the IRS, through the following overt acts:

- i. In or about April 2013, KENNEDY paid KPSCI \$190,000 in cash.
- ii. On or about June 27, 2013, KENT PECOY and JASON PECOY documented the actual construction costs and \$756,500 price in a project check list spreadsheet, and the actual \$756,500 sale price in a specifications contract.
- iii. On or about June 27, 2013, KENNEDY executed a signature page of the specifications contract that stated the actual sale price of \$756,500.
- iv. On August 30, 2013, JASON PECOY sent KENT PECOY an e-mail attaching a version of the project check list spreadsheet along with the message "The first column is what we changed the numbers to for Kennedy. [] the only other question I have is if we want to pay for some of the framing, painting, electric, plumbing, landscaping & pavers with cash. If so should we reduce some of these more."
- v. On or about September 5, 2013, JASON PECOY sent KENT PECOY an e-mail attaching another version of the project check list spreadsheet with the message "left column is what i came up with." The left column of this file falsely eliminated all costs from subcontracted items for framing, roofing, drywall, painting, plumbing, HVAC, electrical, and hardscaping; falsely stated that

these costs would be paid “by owner”; and falsely listed KPSCI’s total costs as \$460,471.

- vi. A few minutes later on or about September 5, 2013, JASON PECOY sent KPSCI’s third Controller an e-mail attaching a version of the project check list spreadsheet that falsely eliminated costs from subcontracted items for framing, roofing, drywall, painting, plumbing, HVAC, electrical, and hardscaping; falsely stated that these costs would be provided “by owner” (*i.e.*, KENNEDY); and falsely listed KPSCI’s “final” total cost as \$460,471 and “final” sale price as \$460,470.
- vii. A few minutes later on or about September 5, 2013, JASON PECOY sent KPSCI’s third Controller an e-mail attaching a version of the Cape House specifications contract that falsely specified a sale price of \$460,470.
- viii. On or about September 16, 2013, KENNEDY filed a personal federal income tax return for Tax Year 2012 that fraudulently omitted cash income that KENNEDY acquired but did not deposit into any bank account.
- ix. On or about October 2, 2013, JASON PECOY falsely stated to KPSCI’s Project Administrator that: the \$460,470 sell price in the project check list spreadsheet was the final price for KENNEDY;

the \$460,470 specifications contract was final; and there was no signed contract.

- x. On or about September 16, 2013, KENT PECOY caused KPSCI to file a construction permit application with the Town of Dennis that falsely stated the Cape House construction price was \$488,000.
- xi. On or about November 7, 2013, JASON PECOY sent an e-mail to KPSCI's Project Administrator attaching a false version of the project check list spreadsheet that omitted costs from subcontracted items for framing, roofing, drywall, painting, plumbing, HVAC, electrical, and hardscaping, and listed a "final" sale price of \$460,470.
- xii. On or about December 6, 2013, KENT PECOY paid Subcontractor 2 approximately \$12,000 of KENNEDY's cash for work on the Cape House.
- xiii. On or about May 10, 2014, JASON PECOY sent an e-mail to KENT PECOY that attached a spreadsheet with the message "I have to update the rest." The spreadsheet listed a running total of \$565,000 in payments that KENNEDY had made for the Cape House in 2013 and 2014, including \$385,000 in cash that was not deposited to any KPSCI bank account. The spreadsheet also stated the "signed contract amount" was \$756,500.

- xiv. On or about June 25, 2014, KENT PECOY and JASON PECOY caused KPSCI to file a Form 1099-MISC with the IRS that falsely omitted cash paid to Subcontractor 2.
- xv. In or about July 2014, JASON PECOY paid Subcontractor 7 approximately \$16,000 of KENNEDY's cash for work on the Cape House.
- xvi. In or about July 2014, JASON PECOY paid Subcontractor 4 approximately \$13,000 of KENNEDY's cash for work on the Cape House.
- xvii. On or about August 14, 2014, JASON PECOY paid Subcontractor 3 approximately \$10,000 of KENNEDY's cash for work on the Cape House.
- xviii. On or about August 25, 2014, JASON PECOY paid Subcontractor 1 approximately \$8,000 of KENNEDY's cash for work on the Cape House.
- xix. On or about September 23, 2014, KENT PECOY directed KPSCI's fourth Controller to pay the Lumber Company \$41,480 of KENNEDY's cash.
- xx. On or about September 23, 2014, KENT PECOY falsely informed KPSCI's fourth Controller that the \$41,480 was KENT PECOY's own cash.

- xxi. On or about October 10, 2014, KENNEDY filed a personal federal income tax return for Tax Year 2013 that fraudulently omitted cash income that KENNEDY acquired but did not deposit into any bank account.
- xxii. On or about November 18, 2014, KENT PECOY directed KPSCI's fourth Controller to pay the Lumber Company \$45,000 of KENNEDY's cash.
- xxiii. On or about November 18, 2014, KENT PECOY falsely informed KPSCI's fourth Controller that the \$45,000 was KENT PECOY's own cash, which he obtained by selling an asset.
- xxiv. In or about 2014, JASON PECOY paid Subcontractor 5 approximately \$9,000 of KENNEDY's cash for work on the Cape House.
- xxv. In or about 2014, JASON PECOY paid Subcontractor 6 approximately \$4,800 of KENNEDY's cash for work on the Cape House.
- xxvi. In or about 2014, JASON PECOY paid Subcontractor 8 approximately \$18,000 of KENNEDY's cash for work on the Cape House.
- xxvii. In or about 2014, JASON PECOY paid Subcontractor 9 approximately \$4,000 of KENNEDY's cash for work on the Cape House.

- xxviii. On or about March 4, 2015, KENT PECOY and JASON PECOY caused KPSCI to file a Form 1099-MISC with the IRS that falsely omitted cash paid to Subcontractor 1, 2, 4, 5, 6, and 9.
- xxix. On or about May 8, 2015, KENNEDY paid KPSCI \$20,000 in cash.
- xxx. On or about June 2, 2015, KENNEDY paid KPSCI \$12,500 in cash.
- xxxi. On or about October 11, 2015, KENNEDY filed a personal federal income tax return for Tax Year 2014 that fraudulently omitted cash income that KENNEDY acquired but did not deposit into any bank account.
- xxxii. On or about October 31, 2015, KENNEDY paid KPSCI \$50,000 in cash.
- d. On or about June 5, 2015, KENT PECOY, in response to a federal Grand Jury, caused KPSCI to provide an incomplete production of records to its attorney and caused the attorney to falsely represent to a federal agent that a complete set of responsive documents had been submitted.

COUNTS ONE THROUGH THREE

**Theft Concerning Programs Receiving Federal Funds; Aiding and Abetting
(18 U.S.C. §§ 666(a)(1)(A) and 2)**

The Grand Jury charges:

49. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 48 of this Indictment.

50. On or about the following dates, in the District of Massachusetts and elsewhere, the defendant,

(1) KEVIN M. KENNEDY,

being an agent of a local government, the City, and an agency thereof, embezzled, stole, obtained by fraud and otherwise without authority knowingly converted to the use of a person other than the rightful owner, and intentionally misapplied, property valued at \$5,000 or more, that was owned by, and was under the care, custody, and control of the City, which received benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan guarantee, insurance or other form of Federal assistance in the following one-year periods:

Count	Beginning of period	End of period
1	January 1, 2013	December 31, 2013
2	January 1, 2014	December 31, 2014
3	January 1, 2015	December 31, 2015

All in violation of Title 18, United States Code, Sections 666(a)(1)(A) and 2.

COUNTS FOUR THROUGH SEVEN

Wire Fraud; Aiding and Abetting
(18 U.S.C. §§ 1343 and 2)

The Grand Jury further charges:

51. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 48 of this Indictment.

52. On or about the following dates, in the District of Massachusetts and elsewhere, the defendant,

(1) KEVIN M. KENNEDY,

having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce, writings, signs, signals, pictures and sounds for the purpose of executing the scheme to defraud, as set forth below:

Count	Approximate Date	Description
4	May 3, 2013	\$17 payment card transaction at Franconia in the name of SC
5	June 26, 2013	\$31 payment card transaction at Franconia in the name of DR
6	October 12, 2013	\$39 payment card transaction at Franconia in the name of WP
7	May 31, 2013	\$39 payment card transaction at Franconia in the name of PM

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNTS EIGHT THROUGH ELEVEN

Engaging In Monetary Transactions Greater Than \$10,000 In Property Derived From Specified
Unlawful Activity; Aiding and Abetting
(18 U.S.C. §§ 1957 and 2)

The Grand Jury further charges:

53. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 48 of this Indictment.

54. On or about the following dates, in the District of Massachusetts and elsewhere, the defendant,

(1) KEVIN M. KENNEDY,

did knowingly engage and attempt to engage in the following monetary transactions in criminally derived property of a value greater than \$10,000, where such property was derived from specified unlawful activity, that is, Theft Concerning Programs Receiving Federal Funds, in violation of 18 U.S.C. § 666(a)(1)(A), as charged in Counts One through Three and Wire Fraud, in violation of 18 U.S.C. § 1343, as charged in Counts Four through Seven, as set forth below:

Count	Approximate Date	Monetary Transaction
8	May 9, 2013	\$25,000 payment from the KGMI Hampden Account to American Express
9	June 20, 2013	\$34,771 payment from the KGMI Hampden Account to Acushnet
10	November 8, 2013	\$36,104 payment from the KGMI Hampden Account to American Express
11	May 29, 2014	\$11,999 payment from the KGMI Hampden Account to Acushnet

All in violation of Title 18, United States Code, Sections 1957 and 2.

COUNTS TWELVE THROUGH NINETEEN
Money Laundering; Aiding and Abetting
(18 U.S.C. §§ 1956(a)(1)(B)(i) and 2)

The Grand Jury further charges:

55. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 48 of this Indictment.

56. On or about the following dates, in the District of Massachusetts and elsewhere, the defendant,

(1) KEVIN M. KENNEDY,

did conduct and attempt to conduct the following financial transactions, knowing that the property involved in such transactions represented the proceeds of some form of unlawful activity, and which in fact involved the proceeds of specified unlawful activity, that is, Theft Concerning Programs Receiving Federal Funds, in violation of 18 U.S.C. § 666(a)(1)(A), as charged in Counts One through Three, and Wire Fraud, in violation of 18 U.S.C. § 1343, as charged in Counts Four through Seven, and knowing that the transactions were designed, in whole and in part, to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity:

Count	Approximate Date	Financial Transaction
12	May 6, 2013	\$11,000 transfer from the KGMI Hampden Account to the Kennedy Hampden Account
13	May 7, 2013	\$1,348 payment from the Kennedy Hampden Account to Quicken
14	October 17, 2013	\$33,000 transfer from the KGMI Hampden Account to the Kennedy Hampden Account

Count	Approximate Date	Financial Transaction
15	October 18, 2013	\$31,684 Check No. 11167 from the Kennedy Hampden Account to IRS
16	June 5, 2014	\$20,000 transfer from the KGMI Hampden Account to the Kennedy Hampden Account
17	June 5, 2014	\$9,000 payment from the Kennedy Hampden Account to American Express
18	June 5, 2014	\$9,000 payment from the Kennedy Hampden Account to Bank of America
19	June 9, 2014	\$1,333 payment from the Kennedy Hampden Account to Quicken

All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

COUNTS TWENTY THROUGH TWENTY-THREE

Filing A False Tax Return
(26 U.S.C. § 7206(1))

The Grand Jury further charges:

57. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 48 of this Indictment.

58. On or about the following dates, in the District of Massachusetts and elsewhere, the defendant,

(1) KEVIN M. KENNEDY,

did willfully make and subscribe the following U.S. Individual Tax returns, which were verified by written declarations that they were made under the penalties of perjury, and which were filed with the Internal Revenue Service, and which returns the defendant did not believe to be true and correct as to every material matter, in that the Forms 1040, which were filed with the Internal Revenue Service Center, failed to include income earned by the defendant during the respective years, whereas he then and there knew that the money was income and should have been reported as such on the respective Forms 1040.

Count	Approximate Filing Date	Tax Year	False Line Item
20	October 6, 2012	2011	Form 1040, Line 22, Total Income
21	September 16, 2013	2012	Form 1040, Line 22, Total Income
22	October 10, 2014	2013	Form 1040, Line 22, Total Income
23	October 11, 2015	2014	Form 1040, Line 22, Total Income Form 1040, Schedule E, Nonpassive Income and Loss

All in violation of Title 26, United States Code, Section 7206(1).

COUNT TWENTY-FOUR
Conspiracy to Defraud the United States
(18 U.S.C. § 371)

The Grand Jury further charges:

59. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 48 of this Indictment.

60. From at least on or about November 1, 2009, through on or about April 20, 2016, in the District of Massachusetts and elsewhere, the defendants,

- (1) KEVIN M. KENNEDY,
- (2) KENT S. PECOY, and
- (3) JASON PECOY,

conspired with each other and with others known to the Grand Jury to defraud the United States for the purpose of impeding, impairing, obstructing and defeating the lawful government function of the Internal Revenue Service in the ascertainment, computation, assessment, and collection of the revenue, to wit: income taxes.

All in violation of Title 18, United States Code, Section 371.

FRAUD FORFEITURE ALLEGATION
(18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

The Grand Jury further finds:

1. Upon conviction of one or more of the offenses in violation of Title 18, United States Code, Sections 666 and 1343, set forth in Counts One through Seven, the defendant,

(1) KEVIN M. KENNEDY,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offenses. The property to be forfeited includes, but is not limited to, the following assets:

- a. \$3,304,000, to be entered in the form of a forfeiture money judgment; and
- b. 7 Ferry Street, West Dennis, Massachusetts.

2. If any of the property described in Paragraph 1, above, as being forfeitable pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), as a result of any act or omission of the defendant --

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property described in Paragraph 1 above.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

MONEY LAUNDERING FORFEITURE ALLEGATION

(18 U.S.C. § 982(a)(1))

The Grand Jury further finds:

1. Upon conviction of one or more of the offenses in violation of Title 18, United States Code, Sections 1957 and 1956, set forth in Counts Eight through Nineteen, the defendant,

(1) KEVIN M. KENNEDY,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), any property, real or personal, involved in such offenses, and any property traceable to such property.

The property to be forfeited includes, but is not limited to, the following assets:

- a. \$2,479,179, to be entered in the form of a forfeiture money judgment; and
- b. 7 Ferry Street, West Dennis, Massachusetts.

2. If any of the property described in Paragraph 1, above, as being forfeitable pursuant to Title 18, United States Code, Section 982(a)(1), as a result of any act or omission of the defendant --

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 982(b), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property described in Paragraph 1 above.

All pursuant to Title 18, United States Code, Section 982(a)(1).

A TRUE BILL

FOREPERSON

STEVEN H. BRESLOW
ASSISTANT UNITED STATES ATTORNEY
DISTRICT OF MASSACHUSETTS

District of Massachusetts: December 19, 2019
Returned into the District Court by the Grand Jurors and filed.

DEPUTY CLERK